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OFFICE OF PETITIONS

In re Application of
Horvitz, et al.
Application No. 08/984,178
Filed: December 3, 1997
Attorney Docket No. 01997198006

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DECISION ON PETITION

This is a decision on the petition to revive the above-identified application pursuant to 37 CFR 1.137(b), filed August 23, 2002.

The petition is **GRANTED**.

The above-identified application became abandoned as a result of petitioner's failure to timely file an Appeal Brief. A final Office action was mailed on May 23, 2000, which set a shortened statutory period for reply of three months. On November 24, 2000, petitioner filed an amendment, made timely by including a Certificate of Mailing dated November 17, 2000, and by obtaining a three month extension of time. However, the amendment failed to place the application in condition for allowance.¹ Accordingly, the above identified application became abandoned on November 24, 2000. A Notice of Abandonment was mailed on March 29, 2001. Petitioner responded by filing a petition to revive under 37 CFR 1.137(b) on June 18, 2001. With the petition to revive, petitioner filed a reply in the form of a Notice of Appeal. The petition was granted in a decision mailed on July 30, 2001. Accordingly, petitioner had two months from the mailing of the July 30, 2001 decision, or until September 30, 2001, to file an Appeal Brief in triplicate. No Appeal Brief having been received, the above-identified application again became abandoned on October 1, 2001. A Notice of Abandonment was mailed on June 27, 2002.

Petitioner has satisfied the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner paid the petition fee, submitted a reply to the January 21, 1999 final Office action in the form of a Continued Prosecution Application (CPA), and made a statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

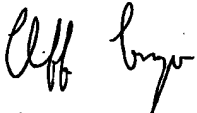
¹ An Advisory Action was mailed on March 1, 2001.

The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being forwarded to Technology Center 1600 for processing of the CPA filed August 23, 2002.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.



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